



Haryana Government Gazette

EXTRAORDINARY

Published by Authority

© Govt. of Haryana

No. 40-2023/Ext.] CHANDIGARH, WEDNESDAY, FEBRUARY 22, 2023 (PHALGUNA 3, 1944 SAKA)

HARYANA VIDHAN SABHA SECRETARIAT

Notification

The 22nd February, 2023

No. 24-HLA of 2022/107/3361.— The Report of the Select Committee on the Haryana Police(Amendment) Bill, 2022 alongwith the Bill as reported by the Select Committee is hereby published for general information under Rule 148 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly.

REPORT OF THE SELECT COMMITTEE ON THE HARYANA POLICE (AMENDMENT) BILL, 2022

1. The Select Committee to report on the Haryana Police (Amendment) Bill, 2022 was nominated by the Hon'ble Speaker on 09.09.2022 with direction to submit its report within two months but on the request of the Chairperson, the tenure of the Committee was extended one month and further three months more by the Hon'ble Speaker.
2. The Committee held two meetings.
3. The Select Committee met on the 29th September, 2022 and 6th December, 2022. The Select Committee at its meeting held on 29th September, 2022 had gone through various clauses of the Haryana Police (Amendment) Bill, 2022 and at the meeting held on 6th December, 2022 was associated with the Additional Chief Secretary to Government, Haryana, Home Department, Haryana, Director General of Police, Haryana and Deputy Legal Remembrancer, Haryana, Law and Legislative Department, Chandigarh to clarify any points which were arose during the course of discussion/ consideration of the Bill.
4. After considering the Bill Clause by Clause in the meeting held on the 6th December, 2022 the Committee suggested the following changes thereon:-

Clause 1 Approved

Clause- 2 for Section 65 (1)

In clause-2 for Section 65 (1) in the last line the words, "on a written complaint received from any of the following" be substituted with the words, "either suo moto or on a complaint received from:-"

Clause 3 Approved

One Member of the Committee Shri Varun Chaudhary, MLA has tendered his Dissenting Note in writing is as Appendix-I

The Committee approved the Bill as redrafted by the Legal Remembrancer and Admn. Secretary to Government, Haryana, Law and Legislative Department.

Chandigarh:
The 16th February, 2023.

RANBIR GANGWA,
DEPUTY SPEAKER,
CHAIRPERSON.

APPENDIX-I

DISSENTING NOTE

Shri Varun Chaudhary, MLA one of the Committee Member has tendered his dissenting note as under:-

“The provision for the Haryana Police Act, 2007 as well as the State & District Police Complaint Authority as per the judgement of Honorable Supreme Court in Prakash Singh & others VS Union of India & others (2006) was to ensure Police accountability were at The Haryana Police (Amendment) Bill, 2022 is limiting the purview of the Police Complaint Authority defeating the very purpose of setting it up.

As per the data provided not a single matter has been taken up by S.P.C.A. exercising suo moto powers. At the same time narrowing down the definition of serious misconduct-

1. Removing attempt to rape;
2. Allowing inquiries only if rape or grievous hurt is caused in Police custody & not otherwise;
3. Removing in action by Police official in any offence as defined in the Indian Penal Code 1860, which attracts minimum punishment of ten years or more, will make the SPCA & DPCA (section 68) ineffective in most of the matters, which are presently under their purview.

The District Police Complaint Authority has not been set up as per section 68 of the Haryana Police Act, 2007 and by an order dated 24th September, 2021 the inquiries which were to be conducted by the District Police Complaint Authority as per the Haryana Police Act, 2007 were transferred to State Police Complaint Authority. This order is void ab initio, as an amendment or ordinance is the only means to provide for any change, provided in the Act. Although this order mentioned above has over-burdened the State Police Complaint Authority as majority of the complaints are against the Inspectors & ranks below Inspectors will affect the time line of six months proposed in the Bill to decide the complaints under section 65(4).

To ensure Police accountability in the interest of the public, The Haryana Police (Amendment) Bill, 2022 may therefore be taken back.

VARUN CHAUDHARY,
M.L.A.
Member, Select Committee
on the Haryana Police (Amendment)
Bill, 2022
06/12/2022”

THE HARYANA POLICE (AMENDMENT) BILL, 2022

(Bill as amended by the Select Committee. The Amendments are Bold)

A**BILL***further to amend the Haryana Police Act, 2007.*

Be it enacted by the Legislature of the State of Haryana in the Seventy- third Year of the Republic of India as follows:—

1. This Act may be called the Haryana Police (Amendment) Act, 2022.

Short title.

2. For section 65 of the Haryana Police Act, 2007 (hereinafter called the principal Act), the following section shall be substituted, namely:—

Substitution of
section 65 of
Haryana Act 25
of 2008

“65. Functions of Authority. – (1) The Authority shall inquire into allegations of serious misconduct as detailed below against police personnel of the rank of Deputy Superintendent of Police and above, **either suo moto or on a complaint received from,**

- (a) a victim or any person on his behalf on a sworn affidavit;
- (b) the National or State Human Rights Commission.

Explanation.— “serious misconduct” for the purpose of this Chapter shall mean any act of a police officer that amounts to:

- (a) death in police custody;
- (b) rape in police custody;
- (c) grievous hurt in police custody;
- (d) custody or detention without due process of law;
- (e) extortion;
- (f) acquiring property through coercion;
- (g) involvement of police personnel in organized crime:

Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint:

Provided further that no anonymous, synonymous and pseudonymous complaints shall be entertained.

(2) The Authority shall not enquire into-

- (i) any matter where a report under section 173 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) has been filed in an appropriate court;
- (ii) any matter pending or that has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled Castes/ National Commission for Women/State Commission for Women/National Commission for Minorities/State Commission for Minorities or State Lokayukta;
- (iii) any matter falling within its jurisdiction after more than three years of its alleged occurrence;
- (iv) any matter arising out of use of force by the police authorities in dealing with any unlawful assembly, protest, dharna, blockage of any public passage or disruption of essential services.

(3) The Authority may also inquire into any other case referred to it by the Director General of Police or the State Government.

(4) The Authority shall decide the complaint within a period of six months from the date of its receipt.”.

Amendment of
section 68C of
Haryana Act 25
of 2008.

3. In section 68C of the principal Act,-
- (i) in sub-section (1), the words “either suo moto or” shall be omitted;
 - (ii) for clauses (ii) and (iii) of sub-section (2), the following clauses shall be substituted, namely:-
 - “(ii) any matter pending or has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled Castes/National Commission for Women/State Commission for Women/National Commission for Minorities/State Commission for Minorities or State Lokayukta;
 - (iii) any matter falling within its jurisdiction after more than three years of its alleged occurrence;”

Chandigarh:
The 22nd February, 2023.

R. K. NANDAL,
Secretary,
Haryana Vidhan Sabha.

[प्राधिकृत अनुवाद]

हरियाणा पुलिस (संशोधन) विधेयक, 2022
(प्रवर समिति द्वारा यथा प्रतिवेदित)
हरियाणा पुलिस अधिनियम, 2007, को
आगे संशोधित करने के लिए
विधेयक

भारत गणराज्य के तिहत्तरवें वर्ष में हरियाणा राज्य विधानमण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो:-

1. यह अधिनियम हरियाणा पुलिस (संशोधन) अधिनियम, 2022, कहा जा सकता है। संक्षिप्त नाम।
 2. हरियाणा पुलिस अधिनियम, 2007 (जिसे, इसमें, इसके बाद, मूल अधिनियम कहा गया है) की धारा 65 के स्थान पर, निम्नलिखित धारा प्रतिस्थापित की जाएगी, अर्थात्:- 2008 के हरियाणा अधिनियम 25 की धारा 65 का प्रतिस्थापन।

“65. प्राधिकरण के कृत्य.—(1) प्राधिकरण, या तो स्वप्रेरणा से या,—

 - (क) किसी पीड़ित या शपथ-पत्र पर उसकी ओर से किसी भी व्यक्ति;
 - (ख) राष्ट्रीय या राज्य मानवाधिकार आयोग,

से शिकायत प्राप्त होने पर, पुलिस उप-अधीक्षक और उससे ऊपर की पदवी वाले पुलिस कार्मिकों के विरुद्ध नीचे यथा विस्तृत गंभीर कदाचार के आरोपों की जांच करेगा।

व्याख्या.— इस अध्याय के प्रयोजन के लिए “गम्भीर कदाचार” का अर्थ होगा किसी पुलिस अधिकारी का कोई कृत्य जो निम्नलिखित की कोटि में आएगा:

 - (क) पुलिस हिरासत में मृत्यु;
 - (ख) पुलिस हिरासत में बलात्कार;
 - (ग) पुलिस हिरासत में घोर उपहति;
 - (घ) विधि की सम्यक् प्रक्रिया के बिना हिरासत या निरोध;
 - (ङ.) उद्दापन;
 - (च) प्रपीड़न के माध्यम से संपत्ति अर्जित करना;
 - (छ) संगठित अपराध में पुलिस कार्मिक का सम्मिलित होना:

परन्तु प्राधिकरण केवल ऐसी गिरफ्तारी या निरोध की शिकायत की जांच करेगा, यदि उसकी शिकायत की सत्यता के बारे में प्रथम दृष्ट या संतुष्टि हो जाती है:

परन्तु यह और कि कोई भी गुमनाम, समानार्थक तथा कृतकनाम शिकायतें ग्रहण नहीं की जाएंगी।
- (2) प्राधिकरण निम्नलिखित मामलों की जांच नहीं करेगा:-
- (i) कोई मामला, जहाँ दंड प्रक्रिया संहिता, 1973 (1974 का केन्द्रीय अधिनियम 2) की धारा 173 के अधीन रिपोर्ट, समुचित न्यायालय में दायर की गई है;
 - (ii) कोई मामला, जो राष्ट्रीय मानवाधिकार आयोग/राज्य मानवाधिकार आयोग/राष्ट्रीय अनुसूचित जाति आयोग/राज्य अनुसूचित जाति आयोग/राष्ट्रीय महिला आयोग/राज्य महिला आयोग/राष्ट्रीय अल्पसंख्यक आयोग/राज्य अल्पसंख्यक आयोग या राज्य लोकायुक्त में लम्बित है या द्वारा पहले से ही निपटान किया जा चुका है;
 - (iii) किसी मामले के अभिकथित घटने के तीन वर्ष से अधिक समय के बाद इसकी अधिकारिता के भीतर आने वाला कोई मामला;
 - (iv) किसी विधिविरुद्ध जमाव, विरोध, धरना, किसी सार्वजनिक रास्ते की रुकावट या आवश्यक सेवाओं में व्यवधान से निपटने में पुलिस प्राधिकरणों द्वारा बल का प्रयोग करने से उत्पन्न कोई मामला।
- (3) प्राधिकरण, पुलिस महानिदेशक या राज्य सरकार द्वारा इसे संदर्भित किसी अन्य मामले की भी जांच कर सकता है।
- (4) प्राधिकरण, शिकायत की प्राप्ति की तिथि से छह मास की अवधि के भीतर शिकायत का निर्णय करेगा।”।

2008 के
हरियाणा
अधिनियम
25 की धारा
68 ग का
संशोधन।

3. मूल अधिनियम की धारा 68 ग में,—
- (i) उप-धारा (1) में, “या तो स्वप्रेरणा से या” शब्दों का लोप कर दिया जाएगा;
- (ii) उप-धारा (2) के खण्ड (ii) तथा (iii) के स्थान पर, निम्नलिखित खण्ड प्रतिस्थापित किए जाएंगे, अर्थात्:—
- “(ii) कोई मामला, जो राष्ट्रीय मानवाधिकार आयोग/राज्य मानवाधिकार आयोग/राष्ट्रीय अनुसूचित जाति आयोग/राज्य अनुसूचित जाति आयोग/राष्ट्रीय महिला आयोग/राज्य महिला आयोग/राष्ट्रीय अल्पसंख्यक आयोग/राज्य अल्पसंख्यक आयोग या राज्य लोकायुक्त में लम्बित है या द्वारा पहले से ही निपटान किया जा चुका है;
- (iii) किसी मामले के अभिकथित घटने के तीन वर्ष से अधिक समय के बाद इसकी अधिकारिता के भीतर आने वाला कोई मामला;”।

चण्डीगढ़:
दिनांक 22 फरवरी, 2023.

आर० के० नांदल,
सचिव।